



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bob Herman, President  
Herman Oil, Inc.  
103 1<sup>st</sup> Street  
Williston, North Dakota 58801

Re: File No. AED/MSEB - 6033  
**NOTICE OF VIOLATION OF THE CLEAN AIR ACT**

Dear Mr. Herman:

During September 15 - 16, 1997, the U.S. Environmental Protection Agency ("EPA") audited Herman Oil, Inc. ("Herman Oil"), located in Williston, North Dakota, for compliance with the Clean Air Act ("Act"), 42 U.S.C. § 7545(k), and the anti-dumping fuels regulations issued thereunder 40 C.F.R. part 80, subpart E.

Where inappropriate fuels are used in internal combustion engines, the emissions of harmful gases can increase significantly. Notwithstanding improvements in vehicle emission controls, emissions from motor vehicles continue to make up a very large portion of all air pollution. Congress has established a program of improvement and regulation of fuels to protect our air quality from unnecessary pollution associated with the misfueling of vehicles.

The EPA fuels regulations require conventional gasoline to meet certain emission standards and impose on importers a number of quality assurance, record keeping, and reporting requirements. As a result of EPA's audit of Herman Oil, EPA determined that in 1996, Herman Oil failed to comply with the fuels regulations as follows:

1. Failed to engage a CPA to conduct an attest audit as required by 40 C.F.R. Subpart F;
2. Failed to file batch reports as required by 40 C.F.R. § 80.105;
3. Failed to report any fuel parameters in its Anti-Dumping Program Annual Report and filed this report on the wrong form in violation of 40 C.F.R. § 80.105;

4. Failed to comply with 40 C.F.R. § 80.101(i) by either testing each batch of gasoline imported from Canada or by following the alternative procedures for CG truck importers set forth in the August 29, 1994 Q&A;
5. Failed to include the requisite language on Product Transfer Documents in violation of 40 C.F.R. § 80.106; and
6. Failed to make "net gallons" determinations as required by 40 C.F.R. § 80.66. Rather, Herman Oil made "gross gallons" determinations that were not temperature corrected.

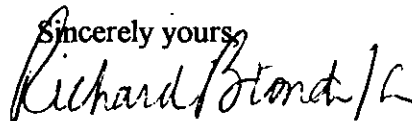
Sections 211 and 205 of the Act, 42 U.S.C. §§ 7545 and 7524, authorize EPA to assess a civil penalty of up to \$27,500 per day for each such violation plus the economic benefit or savings resulting from the violation. In determining the appropriate penalty for violations such as this, we consider the gravity of the violations, the economic benefit or savings (if any) resulting from the violations, the size of your business, your history of compliance with the Act, actions taken by you to remedy the violations and prevent future violations, the effect of the penalty on your ability to continue in business and other matters as justice may require. Based on these factors, we propose a civil penalty of \$15,000 for the violations alleged in this Notice.

We encourage early settlement of matters such as this. The settlement process provides substantial flexibility for reducing the proposed penalty, particularly if the alleged violation is corrected promptly. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter to the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

Please contact the EPA attorney designated below regarding this Notice:

Jeffrey A. Kodish, Attorney  
U.S. Environmental Protection Agency  
Mobile Sources Enforcement Branch  
12345 West Alameda Parkway, Suite 214  
Denver, CO 80228  
Phone number: (303) 236-9511

Let me once again emphasize that while we take our obligation to enforce these requirements seriously, we will make every effort to reach an equitable settlement in this matter.

Sincerely yours,  


Bruce C. Buckheit, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance